

ORDINANCE NO. 2021-##

AN ORDINANCE TO ENACT A NEW CHAPTER # OF THE CODE OF ORDINANCES OF THE CITY OF DEXTER TO PROVIDE FOR AN ETHICS AND CONFLICT OF INTEREST ORDINANCE.

THE CITY OF DEXTER HEREBY ORDAINS:

CHAPTER # ETHICS AND CONFLICTS OF INTEREST

SECTION 1. SHORT TITLE.

This chapter shall be known and may be cited as the “Ethics and Conflicts of Interest Ordinance.”

SECTION 2. DECLARATION OF POLICY.

The City of Dexter declares that public office and employment are public trusts. Those who are elected, appointed, hired, awarded public contracts, or volunteer to serve the public as representatives accept a public trust. Public trust requires public servants to fulfill their public duties faithfully and honestly, and to subordinate any personal interest which conflicts with the public interest. Further, the public trust requires that government business be conducted in an open manner, with few exceptions, such that the official actions of public servants may be subject to public scrutiny, and so that members of the public have access to information upon which decisions and policies are made. Public trust also requires government be conducted in a manner which respects the rights of its constituents to privacy and confidentiality when appropriate.

The principal policy expressed herein, which forms the foundation of this Ordinance, is to encourage individual internal commitment and motivation to act ethically and to maintain a work environment which supports integrity. This requires public servants to recognize that the primary reason they hold a public position is to serve the public, and that the public’s trust in government and in them is diminished when any public servant acts unethically. Also, to further the public trust, all public servants should treat all citizens of the local community with courtesy, impartiality, fairness, and equality under the law.

SECTION 3. INTENT AND PURPOSE.

This Ordinance establishes principles of ethics which are to be applied in public service, identifies minimum standards of ethical conduct for public servants, requires that public servants engage in ethical practices which meet the minimum standards provided herein, and encourages public servants to pursue the highest ethical ideals which they can achieve. The purpose of the Ordinance is not to be punitive, but to maintain and enhance the public’s trust in the functioning of the City. Furthermore, it is the purpose of the Ordinance to promote public confidence in the integrity of public servants; to assist those public servants who serve as volunteers; and to encourage members of the public to seek public office, employment, service on public boards, and to

participate in the governmental process. This Ordinance is intended to involve all citizens in monitoring the integrity of City government.

SECTION 4. DEFINITIONS.

For purposes of this Ordinance, the following terms and phrases shall have the meanings given herein. The words “shall” and “will” are mandatory and “may” is permissive. Words not defined shall be given their common and ordinary meanings unless the context suggests otherwise.

- a. *Beneficial interest.* Any interest in money, property, thing of value, or other benefit the derivation of which is realized presently or in the future.
- b. *City official or City employee.* A person elected, appointed, or otherwise serving in any capacity or position with the City of Dexter, which involves the exercise of a public power, trust, or duty. The term also includes *all* officials and employees of the City of Dexter, whether or not they receive compensation, and shall include City consultants, contractors and persons who serve on City of Dexter boards and commissions, including, but not limited to, those persons serving on the Planning Commission, Board of Review, Downtown Development Authority, and other boards and commissions established by the City of Dexter. The term shall further include persons appointed by the City of Dexter to non-City boards and commissions. The term does not include election inspectors and student representatives appointed to City of Dexter boards or commissions. Those persons included within the term may also be referred to herein as public servants.
- c. *Compensation.* Any money, property, thing of value, or benefit conferred upon or received by any person in return for services rendered or to be rendered to himself or herself or any other party.
- d. *Conflict of interest.* Where:
 - (i) a public servant has any present or future material beneficial interest, beyond ownership of his or her place of residence, in the outcome of a matter currently before that public servant, or that public servant is associated as owner, board member, director, member, partner, officer, employee, broker or stockholder in any entity or organization with which the public servant is directly involved or by whom the public servant is employed, that will be affected by the outcome of such matter;
 - (ii) a public servant has reason to believe or expect that he or she will derive a direct monetary gain or suffer a direct monetary loss, as the case may be, by reason of his or her official activity, or
 - (iii) a public servant has any other prohibited interest as defined by state statutes relating to conflicts of interest.
- e. *Consultant.* A person who gives professional advice or services regarding matters in the field of his or her special knowledge or training. This term may also be referred to herein as public servant.
- f. *Contractor.* Any person, firm, corporation, limited liability company, partnership, sole proprietorship, or other entity or organization that has a contract with the City of Dexter for the supply to the City of any of the following: goods, supplies, material, equipment, labor

and services, in excess of a total of five thousand dollars (\$5,000.00) in any calendar year, or any owner, officer, director, employee or agent of such a person, or any subcontractor, or any person acting in concert with such person. This term may also be referred to herein as public servant.

- g. *Directly involved.* A status where the public servant participates in a material decision-making capacity of an entity or organization more than merely volunteering to serve on an event basis, contributing to the entity or organization, or participating in some activity put on or sponsored by the entity or organization.
- h. *Immediate family.* A City official, employee, consultant, or contractor, or his or her spouse, parents or children.
- i. *Official duties or official action.* A decision, recommendation, approval, disapproval or other action or failure to act which involves the use of discretionary authority.
- j. *Personal interest.* Any interest arising from blood or marriage relationships or any business association.
- k. *Private gain.* Any interest or benefit, in any form, received by a City employee, official, consultant, or contractor.
- l. *Public body.* The Dexter City Council, other City of Dexter board or commission, or a non-City board or commission to which the City of Dexter appoints a citizen of the City of Dexter; or the federal and state governments, including federal or state law enforcement agencies and prosecutorial offices and any division of the respective judiciaries.
- m. *Public office.* An elected or appointed position of, or employment with, the City of Dexter.
- n. *Public servant.* A City official, City employee, contractor, or consultant as defined in Section 4 b, e and f.

SECTION 5. EXEMPTIONS.

- a. This Ordinance shall not be construed to prohibit or restrict any City employee from negotiating, entering into, or enforcing a collective bargaining agreement between the City and a labor union to which the employee belongs pursuant to state or federal law. No public servant shall be deemed to have a conflict of interest due to any lawful action taken pursuant to a collective bargaining agreement. That public servants have entered into a collective bargaining agreement, however, shall not exempt them from any provision of this Ordinance.
- b. This Ordinance is not intended to apply to contributions to political campaigns, which are governed by state or federal law.
- c. This Ordinance does not prevent any public servant from accepting other employment or contracts or following any pursuit that does not interfere with the full and faithful discharge of his or her public duties.

- d. No public servant shall be deemed to have a conflict of interest by virtue of sharing, directly or indirectly, in the benefit of a lawful City action when the benefit to the public servant is substantially the same as the benefit to the public at large or to a segment of the public to whom the benefit is provided in a nondiscriminatory manner.
- e. This Ordinance does not prohibit any public servant from taking any action to approve the lawful payment of salaries, employee benefits, contract amounts, fees, reimbursements of actual and necessary expenses, or other lawful payments authorized in accordance with City of Dexter policies.
- f. This Ordinance does not apply to payments made to public servants under employment contracts or third parties receiving payment for services provided to the City of Dexter.

SECTION 6. ETHICAL STANDARDS AND CONFLICT OF INTEREST: PROHIBITED ACTIONS.

- a. Public servants shall not use public office for private gain or the appearance of private gain. Further, public servants shall avoid any action which might result in or create the appearance of (i) using public employment or office for private gain, or (ii) giving or accepting preferential treatment, including the use of City of Dexter property or information, to or from any entity, organization, or person.
- b. Public servants shall not represent his or her personal opinion as that of the City of Dexter.
- c. Public servants shall use personnel resources, property, and funds under his or her official care and control solely in accordance with prescribed constitutional, statutory, and regulatory procedures and not for personal gain or benefit. Such prohibition includes use of City assets such as employee's time and materials and other City or public resources for political purposes.
- d. Public servants shall not directly or indirectly solicit or accept any gift or loan of money, goods, services, or other thing of value for the benefit of any person, entity, or organization other than the City of Dexter except where the value is de minimus. This prohibition shall not include: (i) invitations to events such as ground breakings, grand openings, charitable, or civic events, (ii) meals provided to the public servant during a meeting related to official local government business, or (iii) gifts unrelated to the public servant's position with the City of Dexter.
- e. Public servants shall not engage in a business transaction in which he or she may profit because of his or her official position or authority or benefit financially or otherwise from confidential information which he or she has obtained or may obtain by reason of such position or authority. For purposes of this section, confidential information shall mean any information that is not generally available to the public but which is available to the public servant.
- f. Public servants shall not accept employment or render services for any private or public interest when the employment or service is incompatible or in conflict with the discharge of his or her official duties or when the employment may tend to impair his or her independence

of judgment or action in the performance of his or her official duties. This shall not prohibit a part-time elected or appointed City official, consultant, or contractor from engaging in private employment or business on his or her own time as a private citizen and where City business is not involved.

- g. Public servants shall not participate as an agent or representative of the City of Dexter in negotiating or executing contracts, granting subsidies, fixing rates, issuing permits or certificates, or regulating or supervising any entity or organization with which the public servant is directly involved or by whom the public servant is employed, or in which the public servant has, directly or indirectly, a financial, personal, or beneficial interest.
- h. Public servants shall not use, or attempt to use, his or her official position to secure, request, or grant any special consideration, beneficial interest, privilege, exemption, advantage, contract, or preferential treatment for himself, herself, others, or an entity or organization with which the public servant is directly involved or by whom the public servant is employed, beyond that which is substantially the same as the benefit to the public at large.
- i. Public servants shall not participate in approving, disapproving, voting, discussing, recommending, or otherwise acting upon any matter in which the public servant, or an entity or organization with which the public servant is directly involved or by whom the public servant is employed, has directly or indirectly a beneficial interest, unless otherwise required by law.
- j. Public servants shall not engage in conduct that qualifies as a conflict of interest.
- k. All public servants shall disclose the full nature and extent of their direct or indirect beneficial interest in any matter before them and shall not participate, as an agent or representative of the City of Dexter, in reviewing, deliberating on, approving, disapproving, voting, recommending, or otherwise acting upon any matter in which they have, directly or indirectly, a beneficial interest, unless otherwise required by law. Accordingly, public servants shall recuse themselves from any such matter before them, unless they disclose such matter to the board on which they are a member or to the City Manager if an employee, and such matter is resolved by that board or the City Manager.

SECTION 7. TREATMENT OF CONFLICTS OF INTEREST AND DISCLOSURES/DISCLOSURE STATEMENTS.

When a City Council member, or other board or commission member believes a conflict or interest exists or may exist, the member in question shall do all of the following immediately, upon first knowledge of the potential conflict of interest:

- a. Contact the City Manager, and the City staff member who is the liaison with that board or commission, as soon as possible;
- b. Declare that a potential conflict of interest exists at the next Council, board or commission meeting;
- c. Provide on the record the details of the potential conflict of interest;
- d. Cease to participate as a Council, board or commission member during that agenda item at the meeting;

- e. During deliberation of the agenda item before the Council, board or commission, leave the meeting room until that agenda item is concluded. (If such abstention results in the loss of quorum, the matter shall be laid over until the next regularly scheduled meeting.)

If there is a question whether a conflict of interest exists or not, the question shall be put before the Council, board or commission by the public servant, or at the request of a member of the applicable Council, board or commission. Whether a conflict of interest exists or not shall be determined by an affirmative vote of the majority of the remaining Council, board or commission members. A Council, board or commission member may recuse themselves if they believe they have a conflict of interest even if the majority of the remaining Council, board or commission members determine that a conflict of interest does not exist.

All other public servants, and those seeking to become public servants, are required to disclose conflicts of interest and potential conflicts of interest on a particular issue coming before the public servant any time the conflict of interest arises, including when that matter comes before the public servant for consideration and action. Such disclosures and written disclosure statements shall be provided and made as follows:

- a. Any public servant who has a conflict of interest, in any matter before the City of Dexter, shall fully disclose the nature and extent of such conflict on the appropriate record of the City prior to discussion or action thereon and shall refrain from participating in any discussion, voting or action thereon, as follows, provided that such exceptions shall be observed as are permitted by law:
 - 1. A City employee who has a beneficial interest in a matter before the City Council or any City board or commission and who participates in discussion with, or gives an official opinion to, the City Council or such other City board or commission relating to such matter, shall disclose on the record of the City Council or such other City board or commission, as the case may be, any conflict of interest and the nature and extent of such interest; and
 - 2. Any appointed City official or employee shall address such a disclosure to the supervisory head of his or her department who shall make the City Manager aware of the disclosure.
- b. Submission of disclosure statements by public servants or those seeking to become public servants, shall be on the City form and submitted at such time as required above. The City Clerk shall be responsible for providing each public servant or applicant the necessary disclosure statement form and also for collecting and retaining the completed forms. All disclosure statements will be maintained by the City Clerk and made available for inspection. Disclosure statements for persons appointed to a board or commission shall be included in the next available agenda packet for that board or commission as an informational item.

SECTION 8. TREATMENT OF CONFLICTS OF INTEREST OR ETHICS VIOLATIONS.

If a public servant who is a member of Council or a board or commission, violates any of the provisions of Section 6, the Council may implement such disciplinary action or sanction as it determines to be appropriate. If a public servant who is an employee, contractor, or consultant violates any of the provisions of Section 6, the City Manager may implement such disciplinary action or sanction as the City Manager determines to be appropriate; provided however that any such discipline or sanction must comply with any contract or union requirements.

SECTION 9. SUPPLEMENT TO STATE LAW.

This Ordinance supplements State law, including but not limited to MCL 15.321-330, which applies to contracts between, and solicitation of contracts by, a public servant and the City entity on which the public servant is an officer or employee, and MCL 15.341-342, which applies to standards of ethical conduct.

SECTION 10. INCONSISTENCIES REPEALED.

Any and all other ordinances or resolutions or parts thereof in conflict with this Ordinance are repealed.

SECTION 11. SEVERABILITY.

If any section, clause or paragraph of this Ordinance is declared invalid by a court of competent jurisdiction, such action will not affect the validity of the Ordinance as a whole or its parts, other than the part declared to be invalid.

SECTION 12. SAVINGS CLAUSE.

Nothing in this Ordinance shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed; nor shall any previously-existing legal right or remedy of any character be lost, impaired, or affected by this Ordinance.

THIS ORDINANCE shall become effective immediately upon passage and publication.

A true copy of this Ordinance may be purchased or inspected at the office of the City Clerk at the City Offices, 8123 Main Street, 2nd Floor, Dexter, Michigan, 48130, during regular business hours, 9:00 a.m. to 5:00 p.m. daily, except weekends and holidays.

Made and passed by the City Council of the City of Dexter, State of Michigan, this XX day of MONTH, 2021

CITY OF DEXTER
A Michigan Municipal Corporation

By: _____
Shawn Keough, Mayor

By: _____
Justin Breyer, Clerk